NEW EDITION

OF THE

Exhibit No.4

BABYLONIAN TALMUD

Original Text Edited, Corrected, Formulated, and Translated into English

BY

MICHAEL L. RODKINSON

First Edition Revised and Corrected

BY

THE REV. DR. ISAAC M. WISE

President Hebrew Union College, Cincinnati, O.

Volume I.

TRACT SABBATH

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Judaism. Pharisaism became Talmudism, Talmudism became Medieval Rabbinism, and Medieval Rabbinism became Modern Rabbinism. But throughout these changes of name, inevitable adaptation of custom, and adjustment of Law, the spirit of the ancient Pharisee survives unaltered. When the Jew reads his prayers, he is reciting formulae prepared by pre-Maccabean scholars; when he dons the cloak prescribed for the Day of Atonement and Passover Eve, he is wearing the festival garment of ancient Jerusalem; when he studies the Talmud, he is actually repeating the arguments used in the Palestinian academies.

Nor is it merely the outer accoutrements of Pharisaism which have survived in his life; the spirit of the doctrine has remained quick and vital. The story of this achievement has not yet been fully told; it lies concealed in the history of the repeated persecutions to which the later bearers of Pharisaism were subjected. When ultimately the fragmentary record is pieced together, it will be discovered as an epic, replete with heroic adventure. From Palestine to Babylonia; from Babylonia to North Africa, Italy, Spain, France, and Germany; from these to Poland, Russia, and eastern Europe generally, ancient Pharisaism has wandered. In the midst of new conditions of life, faced with new worlds of thought, the disciples of the Pharisees have sought on the one hand to preserve the old, and on the other to create the new. With the fifteenth and sixteenth centuries their energies began to wane, and an unprecedented weakness appeared in their academies. This was, however, but for the moment The enlightenment of the eighteenth and nineteenth centuries produced spirits of diverse types, yet united in their common loyalty to the ancient teaching, in Rabbi Israel Baal Shem Tob (ca. 1700–1760) the founder of

Venice in 1523. Fränkel's classical *Introduction to the Jerusalem Talmud* appeared in 1859. There is a French translation of the Palestinian Talmud by M. Schwab.

IV

When we come to the Babylonian Gemara, we are dealing with what most people understand when they speak or write of the Talmud. Its birthplace, Babylonia, was an autonomous Jewish centre for a longer period than any other land; namely, from soon after 586 before the Christian era to the year 1040 after the Christian era—1626 years; from the days of Cyrus down to the age of the Mongol conquerors!

For a long time it was held that the language in which the Babylonian Talmud was written defied grammatical formulation. This is now seen to be nothing but prejudice. Eminent grammarians have discovered its laws, and have determined its place in the scheme of Semitic languages. Its philological side was treated nearly a thousand years ago in the Talmudic Lexicon (*Aruch*) of Asher ben Jehiel, and has been completed by the labours of Levy, Kohut and Jastrow in the last century. The style of the Babylonian Talmud is mostly one of pregnant brevity and succinctness. It is at no time 'easy reading'. Elliptical expression is a constantly recurring feature, and whole sentences are often indicated by a single word. In the discussions, question and answer are closely interwoven, and there is an entire absence of demarcation between them. Hard thinking and closest attention are required under the personal guidance of an experienced scholar, or of an elaborate written exposition of the argument, for the discussion to be followed, or the context understood. And that understanding cannot be gained by the aid of Grammar or Lexicon alone. Even a student who has a fair knowledge of Hebrew and Aramaic, but has not been initiated into the Talmud by Traditional Jewish guides, will find it impossible to *decipher* a page! A great philologist who was also a Talmudist has rightly declared: 'Suppose the teaching of the Talmud suddenly interrupted during the life of a generation; the

treated as an old one.[1] What is meant by this?—Rab said: Pederasty with a child below nine years of age is not deemed as pederasty with a child above that. Samuel said: Pederasty with a child below three years is not treated as with a child above that.[2] What is the basis of their dispute?—Rab maintains that only he who is able to engage in sexual intercourse, may, as the passive subject of pederasty throw guilt [upon the active offender]; whilst he who is unable to engage in sexual intercourse cannot be a passive subject of pederasty [in that respect].[3] But Samuel maintains: Scripture writes, [*And thou shalt not lie with mankind*] *as with the lyings of a* [illegible].[4]

It has been taught in accordance with Rab: Pederasty at the age of nine years and a day; [55a] [he] who commits bestiality, whether naturally or unnaturally; or a woman who causes herself to be bestially abused, whether naturally or unnaturally, is liable to punishment.[5]

R. Nahman, son of R. Hisda stated in an exposition: In the case of a woman, there are two modes of intimacy, but in the case of a

Sodomy with children — no guilt for adult —

(1) The reference is to the passive subject of sodomy. As stated *supra* 54a, guilt is incurred by the active participant even if the former be a minor, i.e., less than thirteen years old. Now, however, it is stated that *within* this age a distinction is drawn. (2) I.e. Rab makes nine years the minimum; but if one committed sodomy with a child of lesser age, no guilt is incurred. Samuel makes three the minimum. (3) At nine years a male attains sexual maturenees. (4) Lev. XVIII, 22. Thus the point of comparison is the sexual maturenees of woman, which is reached at the age of three. (5) [Rashi reads נכרי instead of the נכרי in our printed texts. A male, aged nine years and a day who commits etc.] There are thus three distinct clauses in this Baraitha. The first—a male aged nine years and a day—refers to the *passive* subject of pederasty, the punishment being incurred by the adult offender. This must be its meaning: because firstly, the *active* offender is never explicitly designated as a male, it being understood, just as the Bible states, *Thou shalt not lie with mankind*, where only the sex of the passive participant is mentioned; and secondly, if the age reference is to the *active* party, the guilt being incurred by the *passive adult* party, why single out pederasty: in all crimes of incest, the passive adult does not incur guilt unless the other party is at least nine years and a day? Hence the Baraitha supports Rab's contention that nine years (and a day) is the minimum age of the passive partner for the adult to be liable.

Even as R. Hamnuna propounded: What if a Jew committed bestiality in ignorance; must there have been both a stumbling block and degradation [for the animal to be stoned] and in this case there is only degradation, but no sin; or perhaps for degradation alone without there having been a stumbling block [the animal is stoned]?[1]—R. Joseph said: Come and hear! A maiden aged three years and a day may be acquired in marriage by coition, and if her deceased husband's brother cohabits with her, she becomes his. The penalty of adultery may be incurred through her; [if a *niddah*] she defiles him who has connection with her, so that he in turn defiles that upon which he lies, as a garment which has lain upon [a person afflicted with gonorrhoea].[2] If she married a priest, she may eat of *terumah*;[3] if any unfit person has a connection with her, he disqualifies her from the priesthood.[5] If any of the forbidden degrees had intercourse with her, they are executed on her account,[6] but she is exempt.[7] Now, 'any of the forbidden degrees' implies even a beast: in this case, there is degradation but no stumbling-block, yet it is taught that they [including a beast] are slain on her

Three year old girls, menstruating, and likened to gonorrhoea

(1) According to the latter explanation of the Mishnah, this problem is solved, whilst the first remains unanswered; but according to the first explanation, the first problem is solved, but not the second. As we cannot be certain which is correct, both so far are unsolved. (2) A man who had sexual connection with a *niddah*, defiles that upon which he lies, even if he does not actually touch it. But the degree of uncleanliness it thereby acquires is not the same as that of bedding upon which a *niddah* herself, or a person afflicted with gonorrhoea, lies. For in the latter case, the defilement is so great that the bedding in turn renders any person or utensil with which it comes into contact unclean; whilst in the former, it can only defile foodstuffs and liquids. This is the same degree of uncleanliness possessed by a garment which has lain upon, or been borne by a *zab* (i.e., one afflicted with issue). (3) As the law of an Israelite's (adult) daughter who married a priest. But if she was less than three years old, although the *Kiddushin* accepted on her behalf by her father is valid, yet since she is sexually immature, the marriage cannot be consummated, and hence she is not thereby enabled to eat of *terumah*. On *terumah*, the priest's portion of an Israelite's produce, v. Glos. (4) E.g., a heathen, *hallal*, *nathin*, or bastard. (5) I.e., if a priest's daughter, or if the daughter of a Levite or Israelite married to a priest, she may not eat of *terumah*. (6) If they are of those forbidden on pain of death; v. *supra* 53*a*. (7) As she is a minor.

Exh · 81. 156

violation is not punished by death!—R. Naḥman b. Isaac answered: Their prohibition is their death sentence.[1]

R. Huna, Rab Judah, and all the disciples of Rab maintained: A heathen is executed for the violation of the seven Noachian laws; the Divine Law having revealed this of one [murder], it applies to all. Now is a heathen executed for robbery? Has it not been taught: 'With respect to robbery—if one stole or robbed[2] or [seized] a beautiful woman,[3] or [committed] similar offences,[4] if [these were perpetrated] by one Cuthean[5] against another, [the theft, etc.] must not be kept, and likewise [the theft] of an Israelite by a Cuthean, but that of a Cuthean by an Israelite may be retained'?[6] But if robbery is a capital offence, should not the Tanna have taught: He incurs a penalty?—Because the second clause wishes to state, 'but that of a Cuthean by an Israelite may be retained,' therefore the former clause reads, '[theft of an Israelite by a Cuthean] must not be kept.'[7] But where a penalty is incurred, it is explicitly stated, for the commencing clause teaches: 'For murder, whether of a Cuthean by a Cuthean, or of an Israelite by a Cuthean, punishment is incurred; but of a Cuthean by an Israelite, there is no death penalty'?[8]—How else could that clause have been taught? Could he state, 'forbidden' . . . 'permitted'? Surely it

Murder and Theft of non-Jews allowed

(1) I.e., in speaking of heathens, when the Tanna teaches that they are forbidden to do something, he *ipso facto* teaches that it is punishable by death; for only in speaking of Jews is it necessary to distinguish between prohibition and punishment. (2) Stole (*ganab*) refers to secret stealing; robbed (*gazal*), to stealing by open violence. (3) In war, v. Deut. XXI, 10-14 — a species of robbery. [This is the only possible and correct rendering of the text, *contra* Goldschmidt. Cf. Tosef. A.Z.] (4) Acts which are not actual robbery, but partake of its nature. (5) 'Cuthean' (Samaritan) was here substituted by the censor for the original *goy* (heathen). (6) [I.e., though it is forbidden to rob the heathen (v. *Yad, Genebah* I, 2; VI, 8), the offence was non-actionable. For reason, v. B.K. (Sonc. ed.) note on Mishnah 37*b*.] (7) But actually it is punishable too. [This is merely a survival of old Semitic tribal law that regarded theft and robbery as a crime against the state, and consequently punishable by death. V. Müller, D.H., *Hammurabi*, 88.] (8) Thus the Tanna does refer to punishment; since then he omits a reference to punishment in the clause under discussion, it shows that the heathen is not executed for robbery. In the whole of this discussion the punishment referred to is death.

has been taught: A Cuthean and a [Jewish] shepherd of small cattle [sheep, goats, etc.][1] need neither be rescued [from a pit] nor may they be thrown [therein]![2]

'And similar acts.' To what can this apply in the case of robbery? —R. Aḥa b. Jacob answered: To a worker in a vineyard [who eats of the grapes]. When so? If his is the finishing work, it is permitted?[3] If it is not the finishing work, is it not actual robbery?[4]—But R. Papa said: This applies to [the theft of] an article worth less than a *perutah*.[5] But if so, why say that such robbery of a Jew by a Cuthean must not be kept: does he not forgive him?[6]—Though he later forgives him, he is grieved when it occurs [therefore it is prohibited]. But how can you say that such robbery by one Cuthean from another is but a 'similar act' [i.e., bordering on robbery]: since a Cuthean does not forgive,[7] is it not actual theft?—But R. Aha, the son of R. Iḳa answered: It applies to the withholding of a labourer's wage.[8] One Cuthean from another, or a Cuthean from an Israelite is forbidden, but an Israelite from a Cuthean is permitted.[9] To what can 'a similar act' apply in the case of a beautiful woman?

robbing wages of non-Jew sanctioned

(1) Both are regarded as robbers, the latter because they permit their charges to graze in other people's fields. (2) One need neither exert oneself to save them from death, nor may one encompass it. This, of course, is theoretical only, v. p. 388, n. 6. Not a few of these harsh utterances (where they do not reflect the old Semetic tribal law, v. p. 388, n. 7) were the natural result of Jewish persecution by the Romans, and must be understood in that light. In actual practice, these dicta were certainly never acted upon, and it is significant that a commission of Roman officers, after investigating Jewish law in its relation to Gentiles, took exception only to two laws, one relating to the damage done by a goring ox, and the other permitting a Jew the use of property stolen from a Gentile. R. Gamaliel repealed this latter law. (B.K. 38a: Sifre Deut. 344.) Hence, reverting to the discussion, the Tanna could not have stated that the murder of a Cuthean by a Jew is permissible; therefore he is forced to speak of punishment. (3) E.g., the gathering in of the grapes. Deut. XXIII, 25 is interpreted by the Rabbis as referring to work in connection with the finishing touch given to the produce. (4) Not merely bordering thereon. (5) A small coin, one-eighth of the Roman *as*. (6) One does not mind such a trifle, and readily forgives it. (7) Even such a trifle, v. *infra* 59a. (8) This only borders on a robbery, for actual robbery means depriving a person of what he already possesses. (9) I.e., non-actionable.

free again [to others]?—R. Huna said: From the time that she goes bareheaded in the streets.[1]

R. Eleazar said in R. Ḥanina's name: If a heathen had an unnatural connection with his wife, he incurs guilt; for it is written, *and he shall cleave*, which excludes unnatural intercourse.[2] Raba objected: Is there anything for which a Jew is not punishable and a heathen is?[3] But Raba said thus: A heathen who violates his neighbour's wife unnaturally is free from punishment. Why so?—[Scripture saith:] *To* his *wife*, but not to his neighbour's; *and he shall cleave*, which excludes unnatural intercourse.[4]

R. Ḥanina said: If a heathen smites a Jew, he is worthy of death,[5] for it is written, *And he looked this way and that way, and when he saw that there was no man, he slew the Egyptian.*[6] R. Ḥanina also said: He who smites an Israelite on the jaw, is as though he had thus assaulted the Divine Presence; for it is written, *One who smiteth*[7] *man* [i.e. an Israelite] *attacketh*[8] *the Holy One.*[9]

(Mnemonic: *lifts, his servant, Sabbath.*)[10] Resh Lakish said: He who lifts his hand against his neighbour, even if he did not smite him, is called a wicked man, as it is written, *And he said unto the wicked man, Wherefore wouldst thou smite thy fellow?*[11] 'Wherefore hast thou smitten' is not said, but *wherefore wouldst thou smite*, shewing that though he had not smitten him yet, he was termed a wicked man. Ze'iri said in R. Ḥanina's name: He is called a sinner, for it is

Sodomy permitted even with neighbors wife

(1) Even non-Jewish married women did not walk bareheaded in the streets, and this bondwoman, though not legally married, would do likewise. If she appeared bareheaded, it was a sign that her connection with the slave to whom she had been allotted was now broken. (2) His wife derives no pleasure from this, and hence there is no cleaving. (3) A variant reading of this passage is: Is there anything permitted to a Jew which is forbidden to a heathen. Unnatural connection is permitted to a Jew. (4) By taking the two in conjunction, the latter as illustrating the former, we learn that the guilt of violating the injunction *'to his wife* but not to his neighbour's wife' is incurred only for natural, but not unnatural intercourse. (5) [By the Hand of God, v. *Yad, Melakim*, I, 6]. (6) Ex. II, 12. Thus Moses slew the Egyptian for striking an Israelite, proving that he had merited it. (7) Deriving *mokeh* from *nakoh*. (8) *Yale'* יַלֵּד, is here derived from *lo'* לֶחִי the jaw: lit., 'smiteth the jaw'. (9) Prov. XX, 25. (10) V. p. 387 n. 8. (11) Ex. II, 13.

a positive one, yet it is reckoned?—It is both positive and negative.[1]

R. Johanan said: A heathen who studies the Torah deserves death, for it is written, *Moses commanded* us *a law for an inheritance;*[2] it is *our* inheritance, not theirs.[3] Then why is this not included in the Noachian laws?—On the reading *morasha* [an inheritance] he steals it; on the reading *me'orasah* [betrothed], he is guilty as one who violates a betrothed maiden, who is stoned.[4] An objection is raised: R. Meir used to say, Whence do we know that even a heathen who studies the Torah is as a High Priest. From the verse, [*Ye shall therefore keep my statutes, and my judgments:*] *which, if man do, he shall live in them.*[5] Priests, Levites, and Israelites are not mentioned, but *men:* hence thou mayest learn that even a heathen who studies[6] the Torah is as a High Priest!—That refers to their own seven laws.(7)

'R Hanania b. Gamaliel said: [They were also commanded] not to partake of the blood drawn from a living animal.'

Our Rabbis taught: *But flesh with the life thereof, which is the blood thereof, shall ye not eat,*[8] this prohibits flesh cut from the living animal. R. Hanania b. Gamaliel said: It also prohibits blood drawn from a living animal. What is his reason?—He reads the verse

(1) Positive: to dispense justice; negative: to refrain from injustice. But the Sabbath is entirely positive. (2) Deut. XXXIII, 4. (3) This seems a very strong expression. In the *J. E.* (*loc. cit.*) it is suggested that R. Johanan feared the knowledge of Gentiles in matters of Jurisprudence, as they would use it against the Jews in their opponents' courts. In support of this it may be observed that the Talmud places R. Johanan's dictum (which, of course, is not to be taken literally) immediately after the passage dealing with the setting up of law courts by Gentiles. It is also possible that R. Johanan's objection was to the studying of Oral Law by Jewish Christians, as the possession of the Oral Law was held to be the distinguishing mark of the Jews. It is significant that it was R. Johanan who also said that God's covenant with Israel was only for the sake of the Oral Law. (Cf. Ex. Rab. 47.) (4) In Pes. 49b two opinions on the reading of this verse are recorded. One view is that it should be read, *Moses commanded us a law for an inheritance* (*morasha* מוֹרָשָׁה), in accordance with the Scriptural text. Another version is, *Moses commanded us a law for a betrothal* (reading *me'orasah* מְאוֹרָסָה = מְאֹרָס i.e., as something betrothed, consecrated to us, from אֹרֵס = אָרַס). On the first view, this prohibition is included in that of robbery; on the second, in that of adultery. (5) Lev. XVIII, 5. (6) Which includes observing. (7) It is meritorious for them to study these; but not laws which do not pertain to them. (8) Gen. IX, 4.

[Mishnah] refers to a husband who explicitly accepted her under all conditions. Lewd mother is "pure"

Our Rabbis taught: If a woman sported lewdly with her young son [a minor], and he committed the first stage of cohabitation with her,—Beth Shammai say, he thereby renders her unfit to the priesthood;(1) Beth Hillel declare her fit. R. Hiyya the son of Rabbah b. Nahmani said in R. Hisda's name; others state, R. Hisda said in Ze'iri's name: All agree that the connection of a boy aged nine years and a day is a real connection; whilst that of one less than eight years is not.(2) their dispute refers only to one who is eight years old, Beth Shammai maintaining, We must base our ruling on the earlier generations, but(3) Beth Hillel hold that we do not.

Now, whence do we know that in the earlier generations [a boy of eight years] could beget children? Shall we say since it is written: [i] [*And David sent and inquired after the woman, And one said:*] *Is not this Bath Sheba, the daughter of Eliam, the wife of Uriah the Hittite?*(4) And it is written, [ii] *Eliam, the son of Ahitophel the Gilonite;*(5) and it is written, [iii] *And he sent by the hand of Nathan the prophet; and he called his name Jedidiah* [afterwards Solomon] *because of the Lord;*(6) and it is written, [iv] *And it came to pass, after two full years* [after Solomon's birth], *that Absalom had sheepshearers;*(7) and it is written, [v] *So Absalom fled and went to Geshur and was there three years;*(8) and it is written [vi] *So Absalom dwelt two full years in Jerusalem, and saw not the king's face;*(9) and it is written, [vii] *And it came to pass after forty years, that Absalom said unto the king, I pray thee, let me go and pay my vow, which I have vowed unto the Lord in Hebron;* and it is written,(10) [viii] *And when Ahitophel saw that his counsel was not followed, he saddled his ass, and arose, and got him home to his house, to his city and put his household in order, and hanged himself;*(11) and it is written, [ix] *Bloody*

Mother + Son

(1) I.e., she becomes a harlot, whom a priest may not marry (Lev. XXI, 7). (2) So that if he was nine years and a day or more, Beth Hillel agree that she is invalidated from the priesthood; whilst if he was less that eight, Beth Shammai agree that she is not. (3) When a boy of that age could cause conception. (4) II Sam. XI, 3. (5) Ibid. XXIII, 34. (6) Ibid. XII, 25. (7) Ibid. XIII, 23. (8) Ibid. 38. (9) Ibid. XIV, 28. (10) Ibid. XV, 7. (11) Ibid. XVII, 23.

in a place where he must die]; [77a] then with respect to damages, wherein unwitting damage is treated as deliberate, and an accident as intention,[1] surely he is liable for confining [the animal].

'R. Aḥa b. Rab ruled that he is not liable.' Said R. Mesharshia: Why does my grandfather[2] rule him not liable?—Because of the verse, [*Or in enmity he smite him with his hand, that he die:*] *He that smote him shall surely be put to death: for he is a murderer:*[3] only a murderer has the law made liable for confining, but not one who causes damage thereby. How To Kill a neighbor

Raba said; If one bound his neighbour and he died of starvation, he is not liable to execution. Raba also said: If he bound him in the sun, and he died, or in a place of intense cold and he died, he is liable; but if the sun was yet to appear, or the cold to make itself felt, he is not.[4] Raba also said: If he bound him before a lion, he is not liable;[5] before mosquitoes, [who stung him to death] he is. R. Ashi said: Even before mosquitoes, he is not liable, because these go and others come.[6]

It has been stated: If one overturned a vat upon a man [who then died of suffocation], or broke open a ceiling above him,[7]—Raba and R. Zera [differ]: One ruled that he is liable, the other that he is not. It can be proved that it was Raba who ruled that he is not liable, for he said: If one bound his neighbour and he dies of starvation, he is not liable.[8] On the contrary, it can be

(1) It being a general principle that a man is liable for any damage he does, no matter how, B.K. 26*b*. (2) R. Aḥa b. Rab was a Babylonian amora of the fourth century, and the grandfather of R. Mesharshia. (3) Ibid. The first half of the verse extends the law to confining one's neighbour in a place of death, (p. 519). (4) I.e., he is liable only if the place was already exposed to heat or cold. But if it was merely destined to become hot, the sun not yet having risen, he is not liable. In the first case, he is regarded as a direct murderer, in the second, as an indirect cause. That is the general reason for the exemptions taught in this passage. (5) Because he could not have saved himself in any case. [Raba probably refers to a prisoner thrown into an arena to be torn by lions.] (6) I.e., the mosquitoes before which the prisoner was bound do not kill him entirely, as there is a continuous coming and going. Hence it is similar to binding one in a place where the sun will appear, but has not yet done so. (7) So that the cold entering therein, killed him. (8) This is similar: he did not kill him but indirectly caused his death.

has intercourse with a grown-up woman makes her [as though she were] injured by a piece of wood.[1] When I said it before Samuel he said: 'Injured by a piece of wood' does not apply to[2] flesh. Some teach this teaching by itself:[3] [As to] a small boy who has intercourse with a grown-up woman, Rab said, he makes her [as though she were] injured by a piece of wood; whereas Samuel said: 'Injured by a piece of wood' does not apply to flesh. R. Oshaia objected: WHEN A GROWN-UP MAN HAS HAD INTERCOURSE WITH A LITTLE GIRL, OR WHEN A SMALL BOY HAS INTERCOURSE WITH A GROWN-UP WOMAN, OR WHEN A GIRL WAS ACCIDENTALLY INJURED BY A PIECE OF WOOD—[IN ALL THESE CASES] THEIR KETHUBAH IS TWO HUNDRED [ZUZ]; SO ACCORDING TO R. MEIR. BUT THE SAGES SAY: A GIRL WHO WAS INJURED ACCIDENTALLY BY A PIECE OF WOOD—HER KETHUBAH IS A MANEH![4] Raba said. It means[5] this: When a grown-up man has intercourse with a little girl it is nothing, for when the girl is less than this[6] it is as if one puts the finger into the eye;[7] but when a small boy has intercourse with a grown-up woman he makes her as 'a girl who is injured by a piece of wood,' and [with regard to the case of] a girl injured by a piece of wood,' itself, there is the difference of opinion between R. Meir and the Sages.

Rami b. Hama said: The difference of opinion[8] is [only] when he[9] knew her,[10] for R. Meir compares her[11] to a mature girl,[12] and

(1) Although the intercourse of a small boy is not regarded as a sexual act, nevertheless the woman is injured by it as by a piece of wood. (2) Lit., 'is not in'. (3) I.e., the difference of opinion between Rab and Samuel with regard to that question was recorded without any reference to R. Judah. (4) The Sages differ only with regard to a girl injured by a piece of wood, but not with regard to a small boy who has intercourse with a grown-up woman. This shows that the latter case cannot be compared with the former case. The Mishnah would consequently be against Rab and for Samuel. (5) Lit., 'says'. (6) Lit., 'here', that is, less than three years old. (7) Lit., tears come to the eye again and again, so does virginity come back to the little girl under three years. Cf. Nid. 45a. (8) Between R. Meir and the Sages. (9) The husband. (10) I.e., he knew, when he married her, that the bride was thus injured. (11) The one who was thus injured. (12) *A bogereth* (v. Glos.), a girl of full maturity, may

wounded[1] by a splinter! No, said R. Zera,[2] in respect of a minor who made a declaration of refusal.[3]

R. Shimi b. Hiyya stated: A woman who had intercourse with a beast is eligible to marry a priest. Likewise it was taught: A woman who had intercourse with that which is no human being,[5] though she is in consequence subject to the penalty of stoning,[6] is nevertheless permitted to marry a priest.[7]

When R. Dimi came[8] he related: It once happened at Haitalu[9] that while a young woman was sweeping the floor[10] a village dog[11] covered her from the rear,[12] and Rabbi permitted her to marry a priest. Samuel said: Even a High Priest. But was there a High Priest in the days of Rabbi?[13]—Rather, [Samuel meant]: Fit for a High Priest. Intercourse with beast

Raba of Parzakaia[14] said to R. Ashi: Whence is derived the following statement which the Rabbis made: Harlotry is not applicable to bestial intercourse?—It is written, *Thou shalt not bring the hire of a harlot, or the price of a dog,*[15] and yet we learned that the hire of a dog[16] and the price of a harlot[17] are permitted[18] because it is said, *Even both these,*[15] two only but not four.

(1) Cf. *supra* p. 394, n. 8. (2) Rab's reason of 'previous carnal intercourse' was necessary. (3) *Mema'eneth*, v. Glos. Unnatural intercourse with her by her husband places the minor in the status of *be'ulah* (v. Glos.) but not in that of harlot, while her refusal to live with him does not give her the status of divorcee or widow but that of *mema'eneth*. Hence the necessity for Rab's statement that such a minor also is forbidden to marry a High Priest. (4) Even a High Priest. The result of such intercourse being regarded as a mere wound, and the opinion that does not regard an accidentally injured hymen as a disqualification does not so regard such an intercourse either. (5) A beast. (6) If the offence was committed in the presence of witnesses after due warning. (7) In the absence of witnesses and warning. (8) From Palestine to Babylon. (9) [Babylonian form for Aitalu, modern Aiterun N.W. of Kadesh, v. S. Klein, *Beiträge* p. 47]. (10) Lit., 'house'. (11) Or 'big hunting dog' (Rashi), 'ferocious dog' (Jast.), 'small wild dog' (Aruk). (12) A case of unnatural intercourse. (13) Judah ha-nasi (the Prince or Patriarch) I, who flourished 170-217 C.E., about a hundred years after the destruction of the second Temple. (14) So Bomberg ed.; MS.M., 'Parazika' (cf. Golds.); Cur. edd., 'Parkin'. (15) Deut. XXIII, 19. (16) The beast which a harlot receives for her intercourse with a dog. (17) A beast received as the price of a harlot who has been sold. (18) To be consecrated to the altar.

Whence did they know?[1]—R. Hana[2] b. Bizna replied in the name of R. Simeon the Pious: They were made to pass before the front-plate.[3] Of the face of anyone turned pale[4] it was known that she was fit for cohabitation; if it did not turn pale[4] it was known that she was unfit for cohabitation. Virgin wine test

R. Nahman said: Dropsy is a manifestation of lewdness.

Similarly, it is said, *And they found among the inhabitants of Jabesh-gilead four hundred young virgins, that had not known man by lying with him;*[5] whence did they know it?[6] R. Kahana replied: They made them sit upon the mouth of a wine-cask. [Through anyone who had] had previous intercourse, the odour penetrated; through a virgin, its odour did not penetrate. They should have been made to pass before the front-plate![7]—R. Kahana son of R. Nathan replied: It is written, *for acceptance*,[8] for acceptance but not for punishment. If so, the same should have applied at Midian also![9] R. Ashi replied: It is written, '*unto them*', implying *unto them*[10] for acceptance but not for punishment; unto idolaters,[11] however, even for punishment.[12]

R. Jacob b. Idi stated in the name of R. Joshua b. Levi: The *halachah* is in agreement with R. Simeon b. Yohai.[13] Said R. Zera to R. Jacob b. Idi: Did you hear this[13] explicitly or did you learn it by a deduction? What [could be the] deduction?—As R. Joshua b. Levi related: There was a certain town in the Land of Israel the legitimacy of whose inhabitants was disputed, and Rabbi sent R. Romanos who conducted an enquiry and found in it the daughter of a proselyte who was under the age of three years and one day,[14] and Rabbi declared her eligible to live with a priest.[15] Baby girl under 3 married

(1) Which of the Midianite women, referred to in the texts quoted, was, or was not fit for cohabitation. (2) Cur. edd., 'Huna'. (3) ציץ, the gold plate which was worn by the High Priest on his forehead. V. Ex. XXVIII, 36ff. (4) Lit., '(sickly) green'. (5) Judges XXI, 12. (6) Cf. *supra* n. 1 *mutatis mutandis*. (7) As was done in the case of the Midianites (v. *supra*). (8) Ex. XXVIII, 38, referring to the front-plate. (9) Why then was the test there performed before the plate? (10) Israelites, as were the inhabitants of Jabesh-gilead. (11) As were the Midianites. (12) By the front-plate. (13) That a proselyte under the age of three years and one day may be married by a priest. (14) And was married to a priest. (15) I.e., permitted her to continue to live with her husband.

Abaye's wife had a daughter. *He* declared, '[She must marry] one of *my* relations,' and *she* maintained, 'one of *mine*'. So he said to her: '[All] benefit from me be forbidden to you if you disregard my wish and marry her to one of your relations.' She went, ignored his desire, and married her to her relation. [Subsequently Abaye] went before R. Joseph [for absolution], who asked him: 'Had you known that she would disregard your wish and marry her to her relation, would you have vowed?' He answered, 'No,' and R. Joseph absolved him. But is such permitted?[1]—Yes; and it was taught: A man once imposed a vow on his wife not to make the festival pilgrimage [to Jerusalem]; but she disregarded his wish, and did go. He went to R. Jose [for absolution], who said to him, 'Had you known that she would disregard your wish and make the journey, would you have imposed the vow on her?' He answered, 'No,' and R. Jose absolved him.

Kol Nidre

MISHNAH. R. ELIEZER B. JACOB SAID: ALSO HE[2] WHO WISHES TO SUBJECT HIS FRIEND TO A VOW TO EAT WITH HIM, SHOULD DECLARE: 'EVERY VOW WHICH I MAY MAKE IN THE FUTURE SHALL BE NULL. [HIS VOWS ARE THEN INVALID,] PROVIDING THAT HE REMEMBERS THIS AT THE TIME OF THE VOW.

GEMARA. But since he says, 'Every vow which I may make in the future shall be null,' he will surely not listen to him[3] and not come to [eat with] him?—[23*b*] The text is defective, and this is what was taught: He who desires his friend to eat with him, and

of sceptic, heretic, and that is its probable meaning in Sanh. XI, 1, where an *apikoros* is excluded from the world to come. The definition given in the Gemara, 99*b*, viz., one who is scornful of the Rabbis, which is the same as it bears here, was in all probability an extension of its meaning, due to feuds between the Rabbis and some sections of the people. (8) And as their adherents naturally try to punish them, the incident could have been anticipated, and therefore is not regarded as unexpected.

(1) The vow itself providing cause for absolution. (2) The friend. (3) This too is an example of a vow of incitement; v. Gemara.